IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION NO. 108 OF 2004
IN
WRIT PETITION NO. OF 200.

Jagannath alias Vilas Sambhaji Sawant and another. ... Petitioners.

V/s.

Kundalika Anand Shinde and others. ... Respondents.

S.G.Deshmukh for the petitioner.

Mohan N. Dhamal for the respondent.

CORAM: V.C.DAGA, J.

DATED: 2nd May 2006.

P.C.:

. Heard rival parties.

2. This review petition is filed by the original petitioner seeking review of the order dated 12th April, 2004, whereby writ petition was summarily dismissed relying on the statement made by the counsel for respondent Nos.1 and 2, who at the relevant time had relied upon the order 9th August, 2000 passed by the learned single Judge and had argued that the appeal has been disposed of by this Court and in Civil Revision Application (C.R.A.) itself interim relief has been vacated.

3. The learned counsel for the review

petitioner submits that he was not aware of the subsequent order dated 20th September, 2000 passed by the learned single Judge of this Court (D.K.Deshmukh, J.). Consequently, relying upon the order dated 9th August, 2000, the petition came to be dismissed in limine.

4. the review petitioner by this petition has brought on record the subsequent order dated 20th September, 2000. In that view of the matter, the order passed by this Court dated 12th April, 2004 needs to be recalled and reviewed.

5. The learned counsel for the respondents with due apology submits that it was a serious mistake on his part in not pointing out subsequent order dated 20th September, 2000. According to him, mistake was inadvertent. He admits that the subsequent order dated 20th September, 2000 ought to have been pointed out by him to this Court and that had it pointed out the result of the petition could have been different.

6. The submission made by learned counsel for respondents that it was an inadvertent mistake is not acceptable to this Court, in view of the reply filed on behalf of respondent Nos.1 and 3 to this review petition (page-43) which reads as under:

> "..... I state that the order dt 20-9-2000 passed by this Hon'ble Court Coram D.K.Deshmukh J. In Civil Application NO.5798/2000 in Civil Revision Application No.410/1999 and the fact that the main Civil Revision Application was itself dismissed on 4-12-2002 before His Lordship Shri.Justice A.M.Khanvilkar were also matters of record before this Hon'ble Court while summarily dismissing Writ Petition No.1593/2002. I say and submit that there was no any intention to suppress any order including the order dt 20-9-2000 passed by his Lordship Shri.Justice D.K.Deshmukh in C.A.No.5798/2000 in said C.R.A. No.410/1999.

7. Faced with the aforesaid reply, when the learned counsel appearing for respondents was called upon to show that these orders were the matter of record before this Court while summarily dismissing the writ petition on 12th April, 2004. He could not point out the same and again admits that the statement made on oath in reply is another inadvertent mistake. Even this submission is not acceptable to this Court. This Court has no option but to record a finding that respondent Nos.1 and 3 has indulged in suppression of material facts from this Court and Shri Mohan N. Dhamal, Advocate made incorrect statement. It is, thus, clear that the affidavit filed by the Advocate Shri Dhamal is not only incorrect but false and misleading.

8. In this view of the matter, the review petition is allowed with cost quantified in the sum of Rs.3,000/- to be paid by the respondents in the review petition within one week from today. The amount of cost shall be paid to the Legal Services Authority of this Court. Order dated 12th April, 2004 is recalled. Petition is restored to file. It be placed before appropriate bench for further hearing after Summer Vacation.

(V.C.DAGA, J.)